

ARKANSAS SENATE
 84th General Assembly - Regular Session, 2003
Amendment Form

JBC 04/14/03 (17)

Subtitle of Senate Bill No. 189

"AN ACT FOR THE DEPARTMENT OF HUMAN SERVICES - DIVISION OF MEDICAL
 SERVICES APPROPRIATION FOR THE 2003-2005 BIENNIUM."

Amendment No. 3 to Senate Bill No. 189.

Amend Senate Bill No. 189 as engrossed, 03/27/03:

Page 3, delete lines 34 through 36 in their entirety and substitute the following:

"(01) REGULAR SALARIES	\$ 10,968,871	\$ 11,265,030
(02) EXTRA HELP	126,892	126,892
(03) PERSONAL SERV MATCH	2,999,797	3,054,159"

AND

Page 4, delete lines 1 through 9 in their entirety and substitute the following:

"(04) OVERTIME	5,000	5,000
(05) MAINT. & GEN. OPERATION		
(A) OPER. EXPENSE	3,129,077	3,129,077
(B) CONF. & TRAVEL	235,840	235,840
(C) PROF. FEES	355,132	355,132
(D) CAP. OUTLAY	0	0
(E) DATA PROC.	0	0
(06) DATA PROCESSING SERVICES	<u>89,800</u>	<u>89,800</u>
TOTAL AMOUNT APPROPRIATED	<u>\$ 17,910,409</u>	<u>\$ 18,260,930"</u>

AND

Page 4, delete lines 19 through 27 in their entirety and substitute the following:

"(01) PRIVATE NURSING HOME CARE	\$ 488,866,748	\$ 528,536,619
(02) INFANT INFIRMARY	19,058,505	19,600,261
(03) PUBLIC NURSING HOME CARE	136,481,442	140,455,885
(04) PRESCRIPTION DRUGS	348,826,208	399,753,505
(05) HOSPITAL AND MEDICAL SERVICES	1,850,504,148	2,001,613,071
(06) CHILD AND FAMILY LIFE INSTITUTE	2,100,000	2,100,000
(07) PRESCRIPTION DRUG WAIVER FOR THE ELDERLY	<u>19,280,065</u>	<u>19,280,065</u>
TOTAL AMOUNT APPROPRIATED	<u>\$2,865,117,116</u>	<u>\$3,111,339,406"</u>

AND



Page 5, delete line 2 in its entirety and substitute the following:

"(01) ARKIDS B PROGRAM \$ 47,368,431 \$ 52,230,965"

AND

Immediately following SECTION 19 insert the additional Sections to read as follows:

" SECTION 20. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. The State Plan must include the provision of EPSDT services as those services are defined in §1396d(r). See §§ 1396a(a)(10)(A), 1396d(a)(4)(B); see also 1396a(a)(43). Section 1396d(r) lists in detail the screening services, vision services, dental services, and hearing services that the State Plan must expressly include, but with regard to treatment services, it states that EPSDT means "[s]uch other necessary health care, diagnostic services, treatment, and other measures described in subsection (a) of this section to correct or ameliorate defects and physical and mental illnesses and conditions discovered by the screening services, whether or not such services are covered under the State plan." 42 U.S.C. § 1396d(r)(5) (emphasis added). Reading §1396a, § 1396d(a), and § 1396d(r) together, we believe that the State Plan need not specifically list every treatment service conceivably available under the EPSDT mandate.

The State Plan, however, must pay part or all of the cost of treatments to ameliorate conditions discovered by the screening process when those treatments meet. The definitions set forth in § 1396a. See § 1396d(r)(5); see also §§ 1396a(a)(10), 1396a (a)(43), and 1396d(a)(4)(B). The Arkansas State Plan states that the "State will provide other health care described in [42 U.S.C. 1396d(a)] that is found to be medically necessary to correct or ameliorate defects and physical and mental illnesses and conditions discovered by the screening services, even when such health care is not otherwise covered under the State Plan." See State Plan Under Title XIX of the Social Security Act Medical Assistance Program, State Of Arkansas at § 4.b. This provision Meets the EPSDT mandate of the Medicaid Act.

We affirm the district court's decision to the extent that it holds that a Medicaid-Eligible individual has a federal right to early intervention day treatment when a physician recommends such treatment. Section 1396d(r)(5) states that EPSDT includes any treatments or measures outlined in § 1396d(a). There are twenty-seven sub-parts to § 1396d(a), and we find that sub-part (a)(13), in particular, when read with the other sections of the Medicaid Act listed above, mandates that early intervention day treatment be provided when it is prescribed by a physician. See 42 U.S.C. § 1396d(a)(13) (defining medical assistance reimbursable by Medicaid as "other diagnostic, screening, preventive, and rehabilitative services, including any medical or remedial services recommended by a physician...for the maximum reduction of physical and mental disability and restoration of an individual to the best possible functional level"). Therefore, after CHMS clinic staff perform a diagnostic evaluation of an eligible child, if the CHMS physician prescribes early intervention day treatment as a service that would lead to the maximum reduction of medical and physical disabilities and restoration of the child to his or her best possible functional level, the Arkansas State Plan must

reimburse the treatment. Because CHMS clinics are the only providers of early intervention day treatment, Arkansas must reimburse those clinics.

SECTION 21. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. ARKANSAS HEALTH CENTER. (A) The Department of Human Services shall not close the Arkansas Health Center that provides skilled nursing through specialized services and programs.

(B) The Department of Human Services shall continue to accept clients for whom it has determined that skilled nursing and specialized services are needed at the Arkansas Health Center.

(C) No funds shall be transferred or reduced from the Arkansas Health Center, except for use as federal matching funds, below the approved funding level on March 1, 2003 without the prior approval of the Arkansas Legislative Council or the Joint Budget Committee.

(D) Determining the maximum amount of appropriation and general revenue funding for a state agency each fiscal year is the prerogative of the General Assembly. This is usually accomplished by delineating such maximums in the appropriation act(s) for a state agency and the general revenue allocations authorized for each fund and fund account by amendment to the Revenue Stabilization law. Further, the General Assembly has determined that the Department of Human Services may operate more efficiently if some flexibility is provided to the Department of Human Services authorizing broad powers under this Section. Therefore, it is both necessary and appropriate that the General Assembly maintain oversight by requiring prior approval of the Legislative Council or Joint Budget Committee as provided by this section. The requirement of approval by the Legislative Council or Joint Budget Committee is not a severable part of this section. If the requirement of approval by the Legislative Council or Joint Budget Committee is ruled unconstitutional by a court of competent jurisdiction, this entire section is void.

The provisions of this section shall be in effect only from July 1, 2003 through June 30, 2005.”

AND

Appropriately renumber the sections of the bill.

The Amendment was read the first time, rules suspended and read the second time and _____

By: Joint Budget Committee

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Secretary